

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

1) E.J. MOBBS

Plaintiff,

vs.

2) KV PHARMACEUTICAL COMPANY and)

3) ETHEX COPORATION,)

Defendants.)

Case No. CIV-09-1122-C

COMPLAINT

COMES NOW the Plaintiff, E.J. Mobbs, and for his complaint against the Defendants, KV Pharmaceutical Company and Ethex Corporation, would show the court and jury as follows:

1. Plaintiff is a resident of Oklahoma County, Oklahoma City, OK.
2. Defendant KV Pharmaceutical Company is incorporated under the laws of the State of Delaware with its corporate headquarters located in St. Louis, Missouri. Defendant KV Pharmaceutical Company is engaged in the business of manufacturing, processing, packing, labeling, holding, and distributing prescription and non-prescription drugs. KV Pharmaceutical Company distributes drugs under the Ethex Corporation label.
3. Defendant Ethex Corporation, a wholly owned subsidiary of Defendant KV Pharmaceutical Company, is incorporated under the laws of the State of Missouri and its corporate office is located in St. Louis, Missouri. Defendant Ethex Corporation is engaged in the business of marketing and distributing drugs, including drugs manufactured by Defendant KV Pharmaceutical Company.
4. Complete diversity of citizenship exists within the purview of 28 U.S.C. §

1332. The amount in controversy in this action exceeds Seventy-Five Thousand and no/100 Dollars (\$75,000.00), exclusive of all interest and costs.

5. Defendants manufactured and/or placed into the stream of commerce the drug product Isosorbide Mononitrate which reached plaintiff in the same or substantially the same condition in which it was produced and sold.

6. Plaintiff brings this lawsuit to recover damages arising from the injuries he sustained from the use of the drug product Isosorbide Mononitrate manufactured and distributed by the Defendants.

7. Defendants designed, manufactured, distributed and sold the drug Isosorbide Mononitrate at a time when it was defective, i.e. unreasonably dangerous beyond the contemplation of the ordinary user.

8. Defendants designed, manufactured, distributed and sold the drug Isosorbide Mononitrate at a time when Defendant knew or should have known that it was unreasonably hazardous.

9. Defendants failed to warn persons including Plaintiff of the defect at a time when Defendants knew or should have known that without such warning persons including Plaintiff were likely to be injured.

10. Defendants designed, manufactured and sold the drug Isosorbide Mononitrate at a time when it was not fit for its intended purpose nor merchantable.

11. As a result of Defendants' acts, each of them, Plaintiff suffered personal injuries. Furthermore, Plaintiff has and will incur medical expenses, has and will endure pain and suffering and has been damaged in an amount in excess of \$75,000.00.

WHEREFORE, Plaintiff prays judgment against Defendants in an amount in excess of \$75,000.00 as authorized by law for actual damages, interest, costs, and such other relief as the Court deems just and proper.

Dated this 13th day of October, 2009.

Respectfully submitted,

s/ Brent L. Neighbors
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